

# **Kentucky Teachers' Retirement System**

## **PLAN DOCUMENT**

SECTION 1 FLEXIBLE BENEFITS PLAN

SECTION 2 MEDICAL REIMBURSEMENT PLAN

SECTION 3 DEPENDENT CARE REIMBURSEMENT PLAN

**Kentucky Teachers' Retirement System**  
Flexible Benefits Plan

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**January 1, 2007**  
Effective Revision Date

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## **Article I**

### **Foreword and Purpose**

Kentucky Teachers' Retirement System Flexible Benefits Plan is a program that permits Participants to elect to receive cash or coverage for themselves and their eligible Dependents under various Component Plans which provide Major Medical; Accident and Sickness; Cancer; Intensive Care; Dental; Vision; and Group Term Life; Medical Reimbursement (FSA) and Dependant Care (FSA) benefits.

The Plan has been established by Kentucky Teachers' Retirement System for the benefit of its Eligible Employees. This Plan is effective **January 1, 2007**.

It is intended that this Plan shall qualify under Section 125 of the Code as a "cafeteria plan."

## Article II Definitions and Construction

**2.1 Definitions:** Where the following words and phrases appear in this Plan they shall have the meaning set forth below, unless a different meaning is plainly required by the context:

**(a) Code:** The Internal Revenue Code of 1986, and regulations and rulings issued thereunder, as amended from time to time.

**(b) Component Plan:** Any one of the plans listed in subsection (c) below. It is intended that each of the Component Plans shall constitute a "qualified benefit" within the meaning of Section 125 of the Code.

**(c) Coverage Expenses:** The insurance premiums or other costs for the benefit coverage a Participant elects pursuant to Section 3.4, and which is provided under one of the following Component Plans which are attached hereto and incorporated herein by reference: Group Hospital and Surgery Insurance; Cancer Insurance; Dental Insurance; Group Life Insurance and Flexible Spending Accounts. For each Plan Year, the Plan Administrator shall specify the premium or other costs for benefit coverage, which is applicable to each of the foregoing Component Plans.

**(d) Covered Compensation:** For each Plan Year, a Participant's Covered Compensation shall mean the actual compensation (including bonuses and overtime) accrued or paid by the Employer to the Employee for the period during which the Employee was a Participant in this Plan (including amounts contributed to the Employer's Retirement Plan on behalf of the Employee in accordance with Code Section 401 (k)).

**(e) Dependent:** A spouse, child, or other dependent of a Participant, subject to further limitations provided by each Component Plan.

**(f) Effective Date:** The date upon which this Plan is effective.

**(g) Eligible Employee:** Each Employee who meets the requirements set forth in Section 3.1 of this Plan.

**(h) Employee:** Any person who is an employee (the term "employee" having its customary, common law meaning) of the Employer and who is receiving remuneration for personal services rendered to the Employer.

**(i) Employer:** The Kentucky Teachers' Retirement System.

**(j) Employer Contribution:** The Employer Contribution for each Plan Year shall be the sum of (1) and (2) below:

(1) Nonelective contributions: The amount the Employer makes available for the benefit of each Participant for the Plan Year pursuant to Section 4.1.

## Article II

## Definitions and Construction (continued)

(2) **Elective contributions:** The amount of Flexible Pay applied to a Participant's Coverage Expenses under the Plan. It is intended hereunder that such amounts shall, for tax purposes (including Section 125 of the Code), constitute an Employer Contribution.

For each Plan Year, the maximum amount of Employer Contribution available under the Plan to any Participant for application to his or her Coverage Expenses shall be that amount set forth in Schedule A of the Plan. For purposes of Section 125 of the Code, the amount set forth in Schedule A shall constitute the maximum Employer Contribution available to any Participant under the Plan during a Plan Year. The maximum amount shall be determined by the Employer prior to the beginning of the Regular Enrollment Period for the ensuing Plan Year and shall be adjusted as necessary due to the increases in cost to the Component Plans.

(k) **ERISA:** Public Law 93-406, the Employee Retirement Income Security Act of 1974, and regulations and rulings issued thereunder, as amended from time to time.

(l) **Fiduciaries:** The Fiduciaries who shall be the Employer and the Plan Administrator, and other parties designated as Fiduciaries by such Fiduciaries in accordance with the powers herein provided, but only with respect to the specific responsibilities of each in connection with the Plan.

(m) **Flexible Pay:** The amount of Covered Compensation that, pursuant to Section 4.2, is applied on behalf of a Participant to pay his or her Coverage Expenses or that (to the extent not otherwise applied) he or she may elect to receive as additional cash compensation.

(n) **Highly Compensated Individual:** An individual who is (1) an officer, (2) a shareholder owning more than 5 percent of the voting power or value of all classes of stock of the Employer, (3) highly compensated, or (4) a spouse or dependent (within the meaning of Code Section 152) of an individual described in (1), (2), or (3).

(o) **Highly Compensated Participant:** A Participant who is described in subparagraph (1), (2), (3) or (4) of paragraph 2.1 (n).

## Article II

## Definitions and Construction (continued)

**(p) Key Employee:** A Participant who is (1) an officer of the Employer having at least \$145,000 annual compensation from the Employer or such other amount as is prescribed by the Secretary of the Treasury from time to time, pursuant to Code Section 415 (d)(1); provided, however, that no more than 50 employees, or if the number of employees of the Employer is less than 500, the greater of three or 10% of the employees, shall be treated as officers; (2) one of the 10 Employees having at least \$30,000 annual compensation from the Employer (or such other amount as is prescribed by the Secretary of the Treasury from time to time pursuant to Code Section 415 (d)(1)) and owning (or considered as owning within the meaning of Code Section 318) the largest interests in the Employer; (3) a 5 percent owner of the Employer; or (4) a 1-percent owner of the Employer having annual compensation from the Employer of more than \$150,000. Such term shall not include any officer or employee of an entity referred to in Code Section 414(d) (relating to governmental plans).

**(q) Participant:** Any Employee who has qualified under the terms of the Plan for participation herein and who remains so qualified.

**(r) Plan:** Kentucky Teachers' Retirement System Flexible Benefits Plan, the Plan set forth herein, as amended from time to time.

**(s) Plan Administrator:** The Employer or its successor or successors, which shall have authority to administer the Plan as provided in Article V.

**(t) Plan Year:** The first Plan Year shall be the period commencing **January 1, 2007** and ending **December 31, 2007**. All subsequent Plan Years shall be the 12-month period commencing on **January 1** and ending on **December 31**.

**2.2 Construction:** As used in this Plan, the masculine gender includes the feminine, and the singular includes the plural, unless the context clearly indicates to the contrary. The words "hereof, hereunder and other similar compounds of the word "here" mean and refer to the entire Plan, not to any particular provision or section.

## Article III      Eligibility, Participation and Enrollment

- 3.1 Eligibility:** Generally, all full and part-time Employees shall be eligible to participate in the Plan. Full and part-time Employees are defined as those employed for 40.0 or 20 or more hours per week, respectively, on a regularly scheduled basis and paid either on a weekly, biweekly, semi-monthly or monthly basis.
- 3.2 Commencement of Participation:** An Eligible Employee shall commence (or recommence) participation in this Plan on the latest of the following dates: (1) the Effective Date of the Plan; **(2) the Employee's first day of the month following employment** as an Eligible Employee; or (3) the date (as determined by the Plan Administrator) that the Election Form is filed by the Participant. See Section 3.4 (c) for limitations on enrollment elections for Employees who recommence employment.
- A Participant's right to participate in any Component Plan shall be dependent upon the Participant's satisfying the specific terms and conditions of participation which are applicable to such Component Plan.
- 3.3 Termination of Participation:** A Participant shall continue to participate in this Plan until the earlier of the following dates:
- (1) The date the Participant terminates employment by death, disability, retirement or other separation from service; or
  - (2) The date the Participant ceases to work for the Employer as an Eligible Employee.
- 3.4 Enrollment:** An Eligible Employee may enroll (or re-enroll) in the Plan by submitting to the Plan Administrator, during an enrollment period described in subsection (a) below, an election form which specifies his or her elections for the Plan Year as to Dependent status and benefit coverage under the Component Plans for which he is eligible, which sets forth his agreement to use the necessary amount of Flexible Pay to pay his Coverage Expenses (if any), and which meets such other standards for completeness and accuracy as the Plan Administrator may establish. Such Employee shall specify his election as to Dependent status as coming within one of the following categories: (i) Employee without Dependents, or (ii) Employee with Dependents. A Participant's election form shall not be effective prior to the date such form is submitted to the Plan Administrator. Any election form submitted by a Participant in accordance with this Section shall remain in effect until the earlier of the following dates: the date the Participant terminates participation in the Plan or the effective date (as determined by the Plan Administrator) of a subsequently filed election form submitted pursuant to subsections (a)(2) and (3) below.



## Article III Eligibility, Participation and Enrollment

(continued)

### (a) Enrollment Periods:

(1) Each Eligible Employee who meets the requirements of Section 3.2, on **December 1**, shall have an initial enrollment period, which shall begin on **December 1** and shall terminate on **December 31**. Each Eligible Employee who meets the requirements after **January 1** shall have an initial enrollment period, which shall begin on the first day after the Employee, has met the requirements and shall terminate 30 days thereafter.

(2) Each Participant shall have a regular enrollment period during which to make elections for the immediately ensuing Plan year. The regular enrollment period for such Plan Year shall commence on **December 1st** prior to such Plan Year and shall terminate 30 days thereafter.

(3) A Participant who incurs a change in family status, as provided in paragraph (c) below, shall have a Special Enrollment Period, which shall begin on the date of his or her family status change and shall terminate 30 days thereafter.

**(b) Enrolling Dependents:** An Eligible Employee may enroll in the Plan any or all of his or her Dependents during his or her Initial Enrollment Period, Regular Enrollment Period, or Special Enrollment Period. A Participant who incurs a family status change may enroll any new Dependents during the Special Enrollment Period commencing on the date such individuals become Dependents of the Participant. Any Dependent not enrolled during an Enrollment Period described in the two preceding sentences may be enrolled thereafter for the current Plan Year only with the consent of the Plan Administrator. An Employee shall enroll his or her Dependents by specifying, on such forms as the Plan Administrator may require, the Dependents' names and birth dates, and by electing the category of dependent coverage that corresponds to the number of Dependents the Employee wishes to enroll.

**(c) Limitation on Enrollment Elections:** A Participant's right to elect certain benefit coverage shall be limited hereunder to the extent such rights are limited in a Component Plan or in rules adopted by the Plan Administrator. Furthermore, a Participant shall not be entitled to revoke an enrollment election after a period of coverage has commenced and to make a new enrollment election with respect to the remainder of the period of coverage unless both the revocation and the new election are on account of and consistent with a change in family status (e.g., marriage, divorce, death of spouse or child, birth or adoption of child, and termination of employment of spouse). Furthermore, if the Employee's participation in the Plan ceases as a result of the Employee's separation from service, and if the Employee recommences employment as an Eligible Employee within the same Plan Year, the Employee may not make a new enrollment election for the remaining portion of that Plan Year.

## Article IV Contributions

**4.1 Nonelection Contributions:** For each Plan Year, the Employer in its sole discretion, may make on behalf of each Participant a Nonelective Contribution to provide benefits for such Participant and his or her Dependents, if applicable, under the Plan. The amount of a Nonelective Contribution shall be calculated for each Plan Year in a uniform and nondiscriminatory manner based on the Participants Dependent status category (as elected under Section 3.4), the commencement or termination date of the Participants employment during the Plan Year, and such other factors as the Employer shall prescribe. If the amount of the Nonelective Contribution exceeds the cost of the benefit coverage selected by the Participant, no such excess amounts will be paid to the Participant.

**4.2 Elective Contributions:**

**(a) Amount of Flexible Pay:** Each Participant shall have an amount of Flexible Pay equal to the Employer Contribution less the Nonelective Contribution described in Section 4.1.

**(b) Flexible Pay Contributions:** Each Participant shall authorize the Plan Administrator to withhold from his or her Covered Compensation for the Plan Year an amount of Flexible Pay equal to his or her Coverage Expenses in excess of his or her Nonelective Contribution for such year. In the event that the Coverage Expenses for the benefit coverage elected by the Participant increase or decrease during the Plan Year, the amount of Flexible Pay withheld from the Participant's Covered Compensation shall be increased or decreased accordingly. Any Flexible Pay, which is withheld from a Participant's Covered Compensation pursuant to this Section, shall be withheld in approximately equal installments from the amounts payable to the Participant for each pay period during the Plan Year (or such portion of the year as the Plan Administrator may designate). For Employees whose salary during the year is paid to them over a period of time less than a year, Flexible Pay amounts will be withheld in installments as determined by the Plan Administrator. If an Employee becomes a Participant after the beginning of the first pay period of the Plan Year, the amount withheld from his or her Covered Compensation during such year shall be a pro rata share of the amount that would have been withheld had he or she been a Participant in the Plans as of the beginning of the Plan Year.

**(c) Election:** An election under subsection (b) to authorize withholding of Flexible Pay shall be made on an Election Form submitted in accordance with Section 3.4. An election to have withheld an amount of Flexible Pay which, in the determination of the Plan Administrator, exceeds the limitation on Flexible Pay set forth in subsection (a) may in the discretion of the Plan Administrator be treated as void or as an election to have withheld the maximum amount permissible under such limitation.

## Article IV Contributions

[continued]

- 4.3 **Effect of Change in Family Status:** If a Participant's elections change during the Plan Year because of an election made pursuant to Section 3.4(a)(3), then in accordance with rules adopted by the Plan Administrator appropriate adjustments shall be made in the amount withheld from or added to the Participant's pay for the balance of the year to reflect any changes in the Participant's Elective Contributions and benefit elections.
- 4.4 **Cash Benefit:** Any Flexible Pay not expended for the purchase of benefits under this Plan shall be considered a cash benefit under the Plan payable to the Participant.
- 4.5 **Benefit Bank:** For each Plan Year, the Employer in its sole discretion, may make on behalf of each Employee who waives coverage in the Employer sponsored **Group Hospital and Surgery Insurance Plan** a Nonelective Contribution of \$175.00 Per month equal to \$2,100.00 Annually into a Benefit Bank. The employee participating in the Benefit Bank may deposit these funds into a Dependant Care Account or into an FSA account. The amount of any Non-elective Contribution will provide benefits for such Participant and his or her Dependents, if applicable, under the Plan shall be calculated for each Plan Year in a uniform and nondiscriminatory manner based on the Participants waiving coverage in the Employer sponsored **Group Hospital and Surgery Insurance Plan**. The maximum amount shall be determined by the Employer prior to the beginning of the Regular Enrollment Period for the ensuing Plan Year and shall be adjusted as necessary due to the increases in cost to the Component Plans.

## Article V Administration

### 5.1 Allocation of Responsibility Among Fiduciaries for Plan

**Administration:** The Fiduciaries shall have only those powers, duties, responsibilities, and obligations as are specifically given or delegated to them under this Plan.

(a) The Employer shall have the sole responsibility for making the Employer Contributions under the Plan as specified in Article IV.

(b) The Employer shall have the sole authority to appoint and remove the Plan Administrator, and to amend or terminate this Plan in whole or in part.

(c) The Plan Administrator shall have the sole responsibility for the administration of the Plan, which responsibility is specifically described herein.

(d) Each Fiduciary warrants that any directions given, information furnished, or action taken by it shall be in accordance with the provisions of the Plan authorizing or providing for such direction, information or action. Furthermore, each Fiduciary may rely upon any direction, information or action of another Fiduciary as being proper under the Plan, and is not required under the Plan to inquire into the propriety of any direction, information or action. It is intended under this Plan that each Fiduciary shall be responsible for the proper exercise of its own powers, duties, responsibilities and obligations under the Plan and shall not be responsible for any act or failure to act of another Fiduciary.

5.2 **Administration:** The Plan shall be administered by the Plan Administrator, which may appoint or employ persons to assist in the administration of the Plan and may appoint or employ any other agents it deems advisable, including legal counsel, actuaries, auditors, bookkeepers and record keepers to serve at the Plan Administrator's direction. All usual and reasonable expenses of the Plan and the Plan Administrator shall be paid by the Employer.

5.3 **Claims Procedure:** The Plan Administrator, or a party designated by the Plan Administrator, shall make all determinations as to the right of any person to an Employer Contribution under the Plan. If an assertion of any such right by a Participant or Dependent is wholly or partially denied, the Plan Administrator, or the designated party, will provide such claimant a comprehensible written notice within 90 days after receipt of the claim, unless circumstances warrant an extension of time not to exceed an additional 90 days, setting forth:

(a) The specific reason or reasons for such denial;

(b) Specific reference to pertinent Plan provisions on which the denial is based;

(c) A description of any additional material or information necessary for the claimant to submit to perfect the claim and an explanation of why such material or information is necessary;

## Article V Administration [continued]

(d) A description of the Plan's claims review procedure. The review procedure is available upon written request by the claimant to the Plan Administrator, or the designated party, within 60 days after receipt by the claimant of written notice of the denial of the claim, and includes the right to examine pertinent documents and submit issues and comments in writing to the Plan Administrator, or the designated party. The decision on review shall be made within 60 days after receipt of the request for review, unless circumstances warrant an extension of time not to exceed an additional 60 days. The decision shall be in writing and drafted in a manner calculated to be understood by the claimant, and shall include specific reasons for the decision with references to the specific Plan provisions on which the decision is based.

- 5.4 **Other Administrative Powers and Duties:** The Plan Administrator shall have such powers and duties as may be necessary to discharge its functions hereunder, including the power: (a) to construe and interpret the Plan, decide all questions of eligibility and determine the amount, manner and time of payment of any reimbursements hereunder; (b) to prescribe procedures to be followed by Participants electing benefit coverage's or filing applications for reimbursements; (c) to prepare and distribute, in such manner as the Plan Administrator determines to be appropriate, information explaining the Plan (d) to receive from Employees, agents and Participants such information as shall be necessary for the proper administration of the Plan (e) to receive, review and keep on file (as it deems convenient or proper) reports of the receipts and disbursements of the Plan; (f) to appoint or employ individuals or other parties to assist in the administration of the Plan and any other agents it deems advisable, including accountants, legal counsel, bookkeepers and record keepers; and (g) to designate or employ persons to carry out any of the Plan Administrator's fiduciary duties or responsibilities under the Plan.

- 5.5 **Rules and Decisions:** The Plan Administrator may adopt such rules and procedures, as it deems necessary, desirable, or appropriate for the administration of this Plan. All rules, procedures and decisions of the Plan Administrator shall be uniformly and consistently applied to all Participants in similar circumstances. When making a determination or calculation, the Plan Administrator shall be entitled to rely upon information furnished by a Participant, a Dependent, the duly authorized representative of a Participant or Dependent or the legal counsel of the Plan Administrator.

## **Article V    Administration** [continued]

- 5.6    Forms and Requests for Information:** The Plan Administrator may require a Participant to complete and file such forms as are provided for herein and all other forms prescribed by the Plan Administrator, and to furnish all pertinent information requested by the Plan Administrator. The Plan Administrator may rely upon all such information, including the Participant's current mailing address.
- 5.7    Responsibility for Plan:** The complete authority to control and manage the operation and administration of the Plan shall be placed in the Plan Administrator, who shall be solely responsible for the operation of the Plan in accordance with its terms. The sponsor(s) of the Component Plans shall have no responsibility for, nor liability toward the operation and administration of this Plan.

## **Article VI    Amendment of the Plan**

The Employer shall have the right at any time by instrument in writing, duly executed and acknowledged, to modify, alter or amend this Plan in whole or in part, provided, however, that no such amendment shall diminish or eliminate any claim for any benefit to which a Participant shall have become entitled prior to such amendment. Notwithstanding the foregoing, the Employer shall have the limited right to amend the Plan at any time, retroactively or otherwise, in such respects and to such extent as may be necessary to fully qualify it as a "cafeteria plan" under existing and applicable laws and regulations, including Section 125 of the Code, and if and to the extent necessary to accomplish such purpose, may by such amendment decrease or otherwise affect benefits to which Participants may have already become entitled.

## **Article VII Termination of the Plan**

The Plan herein provided for has been established by the Employer with the bona fide intention that it shall be continued in operation indefinitely. However, the Employer reserves the right at any time to terminate or partially terminate the Plan.

Should the Employer decide to terminate or partially terminate the Plan, the Plan Administrator shall be notified of such termination in writing and shall proceed at the direction of the Employer to take such steps as are necessary to discontinue the operation of the Plan in an appropriate and timely manner.



## Article VIII Miscellaneous

- 8.1 Employment Rights:** Under no circumstances shall the terms of employment of any Participant be modified or in any way affected hereby. This Plan shall not constitute a contract of employment nor afford any individual any right to be retained in the employ of the Employer.
- 8.2 Spendthrift Clause:** To the extent permitted by law, Participants are prohibited from anticipating, encumbering, alienating or assigning any of their rights, claims or interest in this Plan, and no undertaking or attempt to do so shall in any way bind the Plan Administrator or be of any force of affect whatsoever. Furthermore, to the extent permitted by law, no such rights, claims or interest of a Participant in this Plan shall in any way be subject to such Participant's debts, contracts or engagements, nor to attachment, garnishment, levy or other legal or equitable process. Provided, however, anything to the contrary herein notwithstanding, to the extent permissible under applicable law, a Participant's interest hereunder is subject to all bona fide and existing debts owed by such Participant to the Plan.
- 8.3 No Guarantee of Non-Taxability:** The plan is designed and intended to be operated as a "cafeteria plan" under Section 125 of the Code. Nonetheless, neither the Employer nor any Fiduciary shall in any way be liable for any taxes or other liability incurred by a Participant or anyone claiming through him or her by virtue of Participation in this Plan. The Plan does not prohibit, and indeed contemplates, the payment of taxable benefits under certain of the Component Plans.
- 8.4 Nondiscrimination:** In accordance with Section 125 (b)(1) and (2) of the Code, the Plan is intended not to discriminate in favor of Highly Compensated Individuals as to eligibility to participate, nor Highly Compensated Participants as to contributions and benefits, nor to provide more than 25% of all qualified benefits to Key Employees. If, in the operation of the Plan, more than 25% of the total qualified benefits are found to be provided to Key Employees, or the Plan discriminates in any other manner (or is in danger of so discriminating), then notwithstanding any other provision contained herein, the Plan Administrator shall reduce or adjust such contributions and/or benefits under the Plan as shall be necessary to assure that, in the judgment of the Plan Administrator, the Plan thereafter will not discriminate. All rules, procedures and decisions of the Plan Administrator shall be adopted, made and/or applied in such fashion that they do not discriminate in favor of Highly Compensated Individuals, Highly Compensated Participants or Key Employees.

## Article VIII Miscellaneous

[continued]

- 8.5 **Delegation of Authority by the Employer:** Whenever the Employer under the terms of this Agreement is permitted or required to do or perform any act or matter or thing, it shall be done and performed by any officer or individual thereunto duly authorized by the Employer.
- 8.6 **Construction of Agreement:** This Plan shall be construed according to the laws of the State of Kentucky and all provisions hereof shall be administered according to, and its validity and enforceability shall be determined under, the laws of such state, except where preempted by the Code or ERISA.
- 8.7 **Headings:** The headings of sections and subsections are for ease of reference only and shall not be construed to limit or modify the detailed provisions hereof.
- 8.8 **Entire Plan Stated:** This document sets forth the entire plan. No other employee benefit or employee benefit plan, which is, or may hereafter be maintained by the Employer on a nonelective basis, shall constitute a part of this Plan.

## **Article IX    Signature**

The above Plan is hereby adopted and approved, to be effective as of this

**First 1<sup>st</sup> day of January, 2007**

### **Kentucky Teachers' Retirement System**

BY: \_\_\_\_\_  
A Duly Authorized Officer

**FEBCO, Inc.**  
**Third Party ADMINISTRATOR**

BY: \_\_\_\_\_  
A Duly Authorized Officer

# Schedule A

## Flexible Benefits Plan

Maximum amount of Employer Contributions for Plan:

**Plan Years\***  
**Commencing**  
**on January 1, 2007**  
**Maximum Amount**  
**Nineteen Thousand One Hundred Dollars**

\*For plan years consisting less than 12 months, the stated maximum amount shall be prorated for such shorter period.

# **Kentucky Teachers' Retirement System**

## **MEDICAL REIMBURSEMENT PLAN**

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Effective: January 1, 2007

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## **Article I**

### **Forward and Purpose**

Kentucky Teachers' Retirement System hereby establishes a medical reimbursement plan as a component plan under Kentucky Teachers' Retirement System Flexible Benefits Plan for the exclusive benefit of its employees. The Plan is intended to qualify as a medical reimbursement plan under Section 105(b) of the Code and is to be interpreted in a manner consistent with the requirements of Section 105(b). The purpose of the Plan is to enable Participants to elect to make contributions under the plan in lieu of receiving their compensation in return for which they are entitled to receive payments or reimbursements of Qualifying Medical Care Expenses, which are excludable from the Participant's gross income under Section 105(b) of the Code.



## Article II Definitions and Construction

- 2.1 Definitions:** Where the following words and phrases appear in this Plan, they shall have the following meanings, unless a different meaning is plainly required by the context:
- (a) Code:** The Internal Revenue Code of 1986, and regulations and rulings issued thereunder, as amended from time to time.
  - (b) Dependent:** Any person who falls within the definition of dependent provided in Section 152 of the Code.
  - (c) Effective Date:** The date upon which this Plan is effective.
  - (d) Eligible Employee:** Each Employee who meets the requirements set forth in section 3.1 of this plan.
  - (e) Employee:** Any person who is an employee (such term having its customary common law meaning) of the Employer and who is receiving remuneration for personal services rendered to the Employer.
  - (f) Employer:** Kentucky Teachers' Retirement System.
  - (g) ERISA:** Public Law 93-406, the Employee Retirement Income Security Act of 1974, and regulations and rulings issued thereunder, as amended from time to time.
  - (h) Flexible Benefits Plan:** Kentucky Teachers' Retirement System Flexible Benefits Plan, effective, as amended from time to time, the provisions of which are hereby incorporated by reference and made a part of this Plan.
  - (i) Medical Reimbursement Account:** The account described in Article V hereof.
  - (j) Participant:** Any Employee who has qualified under the terms of Article III of the Plan and who remains so qualified.
  - (k) Plan:** Kentucky Teachers' Retirement System Medical Reimbursement Plan as set forth herein, as amended from time to time.
  - (l) Plan Administrator:** The Employer or its successor or successors, which shall have the authority to administer the Plan as, provided in Article VIII.
  - (m) Plan Year:** The first Plan Year shall be the period commencing on **January 1, 2007** and ending **December 31, 2007**. All subsequent Plan Years shall be the 12-month period commencing on **January 1** and ending on **December 31**.

## **Article II    Definitions and Construction** (continued)

**(n) Qualifying Medical Care Expense:** An expense incurred by a Participant, or by the spouse or Dependent of such Participant, for medical care as defined in Section 213(d) of the Code (including amounts paid for hospital bills, doctor and dental bills and drugs); provided, however, that commencing with Plan Years beginning after December 31, 1989, a premium payment for accident and health insurance shall not be a Qualifying Medical Care Expense. An expense shall be a Qualifying Medical Care Expense only to the extent that the Participant or other person incurring the expense is not reimbursed for the expense and the expense is not reimbursable through insurance or otherwise (other than under the Plan).

**2.2 Construction:** As used in this Plan, a pronoun or adjective in the masculine gender includes the feminine gender, and the singular includes the plural, unless the context clearly indicates otherwise. The words "hereof," "hereunder" and other similar compounds of the word "here" mean and refer to the entire Plan, not to any particular provision or section.

**2.3 Rights of Participants:** All Participants shall be bound by the terms of the Plan, including all amendments hereto made in the manner authorized herein. Participants shall also be entitled to all of the rights and privileges afforded thereby, including those granted specifically by the Code and ERISA, which are hereby adopted by reference as a part of this Plan. The Employer intends that the Plan terms, including those relating to participation and benefits, are legally enforceable.

## Article III Eligibility and Participation

- 3.1 Eligibility.** Generally, all full-time Employees shall be eligible to participate in the Plan. Full-time Employees are defined as those employed for **40** or more hours per week on a regularly scheduled basis and paid either on a weekly, biweekly, semimonthly or monthly basis.
- 3.2 Commencement of Participation.** An eligible Employee shall commence (or recommence) participation upon the effective date of an election under the Flexible Benefits Plan to receive medical reimbursements of Qualifying Medical Care Expenses under this Plan, hereinafter referred to as medical reimbursements. Provided, however, that if the Employee's participating in the Plan ceases as a result of the Employee's failure to make the required contributions through the reduction in compensation as required in Section 5.2, the Employee shall not be permitted to recommence participation in the Plan for the remaining portion of that Plan Year, unless such recommencement of participation is allowed under the terms of the Family and Medical Leave Act of 1993 (Public Law 103-3).
- 3.3 Cessation of Participation.** Except as provided in Section 3.5 hereafter, a Participant shall continue to participate in this Plan until the earlier of (a) the date on which the Plan terminates or (b) the last day of the month immediately following the date that the Participant's employment terminates.
- 3.4 Discrimination.** This Plan shall not be operated in such a manner as to discriminate in favor of highly compensated individuals (as defined in Code Section 105(h)) pursuant to Code Section 105.
- 3.5 Continuation of Coverage.** Notwithstanding all other parts of this Plan, a Participant and/or his spouse and Dependents under the circumstances described below may elect to continue the coverage elected under the Plan even though the Participant's election to receive medical reimbursements expired or was terminated under the Flexible Benefits Plan. Those circumstances are the death of the Participant, the termination (other than by reason of gross misconduct) or reduction of hours of the Participant's employment with the Employer, the divorce or legal separation of the Participant from his or her spouse, the Participant becoming entitled to benefits under Medicare, or a Dependent child ceasing to be a Dependent child under the terms of the Plan.

### **Article III Eligibility and Participation** (continued)

The election period begins when coverage would otherwise terminate under the Plan and ends 60 days after the later of the date when coverage would otherwise terminate, or the date notice of the right to continue coverage is provided by the Plan Administrator. The Plan may charge a premium to the Participant, spouse, or Dependent child as the case may be for any period of continuation coverage equal to not more than 102% of its cost of providing coverage for the period to similarly situated Participants, spouses, or Dependents as the case may be; provided, however, that in the event continuation coverage is extended from 18 to 29 months due to disability as described below, the premium charged for the additional 11 months may be 150% of the cost of providing coverage to similarly situated Participants, spouses, or Dependents. Any premium charged by the Plan under this Section 3.5 shall be credited to the Participant's Medical Reimbursement Account pursuant to Section 5.2. Continuation coverage will extend for a period of not more than 36 months (18 months if the Participant terminates or is terminated from employment with the Employer or reduces or has his hours of service with the Employer reduced so as no longer eligible to be a Participant and 29 months if the party electing continuation coverage is determined by the Social Security Administration to be disabled at the time of the termination or reduction) but may extend for a shorter period of time if, (1) The Employer ceases to provide any group health plan to any Employee, (2) the premiums described above are not paid within 30 days of their due dates, or (3) a party electing continuation coverage becomes covered under another group health plan that does not impose any preexisting condition limitation or exclusion on such party or becomes entitled to Medicare benefits. The Plan, the Employer, the Plan Administrator and any party electing continuation coverage shall comply with the notice and all other requirements of Code Section 4980B(f) all of which requirements are incorporated herein by reference. This Section 3.5 is intended to qualify the Plan under the Consolidated Omnibus Budget Reconciliation Act of 1985, P.L. 99-272, as amended from time to time and shall be interpreted in such a manner as to effectuate that intention.

## **Article IV      Election to Receive Medical Reimbursements**

- 4.1 Election Procedure.** A Participant may elect to receive payments or reimbursements of his Qualifying Medical Care Expenses under this Plan by filing an election to make contributions in accordance with the procedures established under the Flexible Benefits Plan. An election regarding contributions for reimbursement of Qualifying Medical Care Expenses shall be irrevocable during the Plan Year, subject to a change in family status, as provided in the Flexible Benefits Plan.
- 4.2 Maximum Reimbursements:** The maximum amount with a Participant may make as contributions under the Plan and, correspondingly, receive under this Plan in the form of payments or reimbursements for Qualifying Medical Care Expenses incurred in any Plan Year shall be **\$12,000.00.**

## **Article V    Medical Reimbursement Accounts**

- 5.1 Establishment of Accounts.** The Employer will establish and maintain on its books a Medical Reimbursement Account for each Plan Year with respect to each Participant who has elected under the Flexible Benefits Plan to make contributions for payment or reimbursement of Qualifying Medical Care Expenses incurred during the Plan Year.
- 5.2 Crediting of Accounts.** There shall be credited to a Participant's Medical Reimbursement Account for each Plan Year, as of each date compensation is paid to the Participant in such Plan Year, an amount equal to the reduction for contributions for medical reimbursements, if any, to be made in such compensation in accordance with the Participant's election under the Flexible Benefits Plan. All amounts credited to each such Medical Reimbursement Account shall be the property of the Employer unless and until such time as they are distributed as reimbursements of Qualifying Medical Care Expenses incurred during the Plan Year pursuant to Article VI.
- 5.3 Debiting of Accounts.** A Participant's Medical Reimbursement Account for each Plan Year shall be debited from time to time in the amount of any payment under Article VI to or for the benefit of the Participant for Qualifying Medical Care Expenses incurred during such Plan Year. Amounts debited to each such Medical Reimbursement Account shall be treated as payments of the earliest amounts credited to the Account and not yet treated as paid under this Section.
- 5.4 Forfeiture of Accounts.** The amount credited to a Participant's Medical Reimbursement Account for any Plan Year shall be used only to pay or reimburse the Participant for Qualifying Medical Care Expenses incurred during such Plan Year, and only if the Participant applies for payment or reimbursement on or before the 90th day following the close of the Plan Year. If any balance remains in the Participant's Medical Reimbursement Account for any Plan Year after all reimbursements hereunder, such balance shall not be carried over to reimburse the Participant for Qualifying Medical Care Expenses incurred during a subsequent Plan Year, and shall not be available to the Participant in any other form or manner, but shall remain the property of the Employer and the Participant shall forfeit all rights with respect to such balance.

## **Article VI    Payment of Medical Reimbursements**

- 6.1    Claims for Reimbursement.** A Participant who has elected to receive medical reimbursements for a Plan Year may apply to the Employer for reimbursement of Qualifying Medical Expenses incurred by the Participant during the Plan Year by submitting an application in writing to the Employer on or before the 90th day following the close of the Plan Year, in such form as the Employer may prescribe, setting forth: (a) the amount, date and nature of the expense with respect to which a benefit is requested; (b) the name of the person, organization or entity to which the expense was, or is to be paid; (c) the name of the person for whom the expense was incurred and, if such person is not the Participant requesting the benefit, the relationship of such person to the Participant, and (d) the amount recovered, or expected to be recovered, under any insurance agreement or other plan, with respect to the expense. Such application shall be accompanied by bills, invoices, receipts, canceled checks or other statements from an independent third party showing the amounts of such expenses, together with any additional documentation which the Employer may request.
- 6.2    Reimbursement or Payment of Expenses.** The Employer shall reimburse the Participant from the Participant's Medical Reimbursement Account for Qualifying Medical Care Expenses incurred during the Plan Year, for which the Participant submits documentation in accordance with Section 6.1. The Employer may, as its option, pay any such Qualifying Medical Care Expenses directly to the person providing or supplying medical care in lieu of reimbursing the Participant. No reimbursement or payment under this section 6.2 of expenses incurred in a Plan Year shall at any time exceed the total amount of Qualifying Medical Care Expenses for which the Participant has elected to receive reimbursement under the Flexible Benefits Plan (properly reduced as of any particular time for prior reimbursements for the same Plan Year).

## **Article VII Termination of Participation**

In the event that a Participant ceases to be a Participant for any reason, the Participant's election under the Flexible benefits Plan relating to contributions for medical reimbursements shall terminate on the date that participation ceases. Notwithstanding Section 3.3 hereof, the Participant (or his estate) shall be entitled to payment or reimbursement only for Qualifying Medical Care Expenses incurred prior to the close of the period covered by the Participant's last contribution under Section 5.2 and only if the Participant (or his estate) applies for such payment or reimbursement in accordance with Section 6.1 on or before the 90th day after the close of the Plan year.



## Article VIII Administration

- 8.1 Plan Administrator.** The administration of the Plan shall be under the supervision of the Plan Administrator. It shall be a principal duty of the Plan Administrator to see that the Plan is carried out, in accordance with its terms, for the exclusive benefit of the Employees entitled to participate in the Plan without discrimination among them. The Plan Administrator has full power to administer the Plan in all of its details, subject to applicable requirements of law. For this purpose, the Plan Administrator's powers include, but are not limited to, the following authority, in addition to all other powers provided by this Plan; (a) to make and enforce such rules and regulations as it deems necessary or proper for the efficient administration of the Plan; (b) to construe and interpret all terms of the Plan, such interpretation to be made in good faith and in accordance with the common meaning of such terms; (c) to decide all questions arising under the Plan including questions regarding the eligibility of any person to participate in the Plan on a basis that is not discriminatory in favor of highly compensated individuals (as defined in Code Section 105(b) and as consistent with the written terms of the Plan; (d) to compute the amount of benefits which will be payable to any Participant or other person in accordance with the provisions of the Plan, and to determine the person or persons to whom such benefits shall be paid; (e) to authorize the payment of benefits; (f) to appoint or employ such agents, counsel, accountants, consultants, actuaries, and other persons as may be required to assist in administering the Plan; and (g) to allocate and delegate its responsibilities under the Plan and to designate other persons to carry out any of its responsibilities under the Plan, any such allocation, delegation or designation to be by written instrument and in accordance with applicable requirements of law.
- 8.2 Examination of Records.** The Plan Administrator will make available to each Participant such records under the Plan as pertain to him, for examination at reasonable times during normal business hours.
- 8.3 Reliance on Tables, etc.** In administering the Plan, the Plan Administrator will be entitled, to the extent permitted by law, to rely on all tables, valuations, certificates, opinions and reports which are furnished by accountants, counsel or other experts employed or engaged by the Plan Administrator.

## **Article IX    Amendment or Termination of Plan**

- 9.1 Amendment of Plan.** The Employer reserves the right at any time or times and for any reason to alter or amend the provisions of the Plan in whole or in part by a written instrument, duly executed and acknowledged, provided, however, that any such amendment shall not affect a Participant's right to reimbursement of claims already incurred.
- 9.2 Termination of Plan.** The Employer has established the Plan with the intention and expectation that it will be continued indefinitely. However, the Employer reserves the right at any time to terminate or partially terminate the Plan for any reason whatsoever, as determined in the sole discretion of the Employer; provided, however, that such termination or partial termination shall not affect a Participant's right to reimbursement of claims already incurred.

## Article X      Claims Procedure

- 10.1 Claims.** A Participant shall make a claim for benefits by making a request therefore in accordance with Section 6.1.
- 10.2 Notice of Decision.** If a claim is wholly or partially denied, notice of the decision, in accordance with Section 10.3, shall be furnished to the claimant within a reasonable period of time, not to exceed ninety (90) days after receipt of the claim by the Plan Administrator, unless special circumstances require an extension of time for processing the claim. If such an extension of time is required, written notice of the extension shall be furnished to the claimant prior to the termination of the initial ninety (90) day period. In no event shall such extension exceed a period of ninety (90) days from the end of such initial period. The extension notice shall indicate the special circumstances requiring an extension of time and the date on which the Plan Administrator expects to render a decision.
- 10.3 Content of Notice.** The Plan Administrator shall provide every claimant who is denied a claim for benefits written notice setting forth, in a manner calculated to be understood by the claimant, the following: (a) the specific reason or reasons for the denial; (b) specific reference to pertinent Plan provisions upon which the denial is based; (c) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary; (d) an explanation of the Plan's claims review procedure, as set forth below in Sections 10.4 and 10.5 hereof.
- 10.4 Appeal Procedure.** The purpose of the review procedure set forth in this Section and Section 10.5 is to provide a procedure by which a claimant, under the Plan, may have reasonable opportunity to appeal denial of a claim to the Appeals Committee for a full and fair review. To accomplish that purpose, the claimant, or his duly authorized representative may: (a) request review upon written application to the Appeals Committee; (b) review pertinent Plan documents; and (c) submit issues and comments in writing. A claimant (or his duly authorized representative) shall request a review by filing a written application for review with the Appeals Committee at any time within sixty (60) days after the receipt by the claimant of written notice of the denial of his claim.

## Article X      Claims Procedure

(continued)

- 10.5 Review Procedure.** Decision on review of a denied claim shall be made in the following manner (a) the decision on review shall be made by the Appeals Committee, which may, in its discretion, hold a hearing on the denied claim; the Appeals Committee shall make its decision promptly, and not later than sixty (60) days after the Appeals Committee receives the request for review, unless special circumstances require extension of time for processing, in which case a decision shall be rendered as soon as possible, but not later than one hundred twenty (120) days after receipt of the request for review. If such an extension of time for review is required, written notice of the extension shall be furnished to the claimant prior to the commencement of the extension; (b) the decision on review shall be in writing and shall include specific reasons for the decision and specific references to the pertinent Plan provisions on which the decision is based and shall be written in a manner calculated to be understood by the claimant (c) in the event that the decision is not furnished within the same period set forth in Section 10.5(a), the claim shall be deemed denied on review.
- 10.6 Disputes.** If a dispute arises with respect to any matter under this Plan, the Plan Administrator may refrain from taking any other or further action in connection with the matter involved in the controversy until the dispute has been resolved.
- 10.7 Appeals Committee.** For purposes of this Article X, the Appeals Committee shall consist of the KTRS Executive Secretary, KTRS Deputy Executive Secretary, and one KTRS Division Director selected by the Executive Secretary.

## Article XI Miscellaneous

- 11.1 Communication to Eligible Employees.** The Employer will promptly notify all Eligible Employees of the benefits available and terms of the Plan.
- 11.2 Limitation of Rights.** Neither the establishment of the Plan nor any amendment thereof will be construed as giving to any Participant or other person any legal or equitable right against the Plan Administrator of the Employer, except as expressly provided herein, and in no event will the terms of employment or service of any Participant be modified or in any way be affected hereby.
- 11.3 Benefits Solely From General Assets.** The benefits provided hereunder will be paid solely from the general assets of the Employer. Nothing herein will be construed to require the Employer or the Plan Administrator to maintain any fund or segregate any amount for the benefit of any Participant, and no Participant or other person shall have any claim against, right to, or security or other interest in, any fund, account or asset of the Employer from which any payment under the Plan may be made.
- 11.4 Nonassignability of Rights.** The right of any Participant to receive any reimbursement under the Plan shall not be alienable by the Participant by assignment or any other method, and will not be subject to claims by his creditors by any process whatsoever, and any attempt to cause such right to be so subjected will not be recognized, except to such extent as may be required by law.
- 11.5 No Guarantee of Tax Consequences.** While it is intended that the Plan satisfies the relevant provisions of Code Sections 125 and 105, neither the Plan Administrator nor the Employer makes any representations or assurances that any amounts paid to or for the benefit of a Participant under Article VI will be excludable from the Participant's gross income for federal or state income or employment tax purposes, or that any other federal or state tax treatment will apply to or be available to any Participant. It shall be the obligation of each Participant to determine whether each payment under Article VI is excludable from the Participant's gross income for federal and state tax purposes, and to notify the Employer if the Participant has reason to believe that any such payment is not so excludable.

## **Article XI    Miscellaneous**

(continued)

- 11.6 Indemnification of Employer by Participants.** If any Participant receives one or more payments or reimbursements under Article VI that are not for Qualifying Medical Care Expenses, such Participant shall indemnify and reimburse the Employer for any liability it may incur for failure to pay or withhold federal or state income or employment tax from such payment or reimbursements. However, such indemnification and reimbursement shall not exceed the amount of additional federal and state income tax that the Participant would have owed if the payments or reimbursements had been made to the Participant as regular cash compensation, plus the Participant's share of any Social Security tax that would have been paid on such compensation, less any such additional income and Social Security tax actually paid by the Participant.
- 11.7 Governing Law.** The Plan will be construed, administered and enforced according to the law of Kentucky.

## **Article XII Signature**

IN WITNESS WHEREOF, the Employer has caused this Plan to be executed in its name and on its behalf by its duly authorized officer this

**First 1st day of January, 2007**

### **Kentucky Teachers' Retirement System**

BY: \_\_\_\_\_  
A Duly Authorized Officer

**FEBCO, Inc.**  
**Third Party ADMINISTRATOR**

BY: \_\_\_\_\_  
A Duly Authorized Officer

# **Kentucky Teachers' Retirement System**

## **Dependent Care Reimbursement Plan**

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**Kentucky Teachers' Retirement System**  
Dependent Care Reimbursement Plan

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**January 1, 2007**  
Effective Date



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## **Article I**

## **Foreword and Purpose**

Kentucky Teachers' Retirement System hereby establishes a Dependent Care Reimbursement Plan (the "Plan") as a component plan under the Flexible Benefits Plan for the exclusive benefit of its employees. The Plan is intended to qualify as a dependent care assistance program under Section 129 of the Internal Revenue Code of 1986, as amended. The purpose of the Plan is to enable Participants to elect to receive payments or reimbursements of their dependent care expenses in lieu of their compensation, which payments are incurred by Participants in connection with their employment and are excludable from the Participant's gross income under Section 129 of the Code.

## Article II Definitions and Construction

**2.1 Definitions.** Where the following words and phrases appear in this Plan, they shall have the following meanings, unless a different meaning is plainly required by the context:

**(a) Code:** The Internal Revenue Code of 1986, and regulations and rulings issued thereunder, as amended from time to time.

**(b) Dependent:** (1) General Rule: Any individual who is (i) a dependent of the Participant who is under the age of 13 and with respect to whom the Participant is entitled to an exemption under section 151 (c) of the Code, or (ii) a dependent or spouse of the Participant who is physically or mentally incapable of caring for himself. (2) Special Rule for Divorce or Separation of Parents: Notwithstanding subsection (1), if (i) either Code section 152(e)(2) (regarding the release by a custodial parent of a claim to a dependency exemption) or Code section 152(e)(4) (regarding various pre-1985 divorce or separation agreements) is applicable to a child of a Participant, and (ii) such child is under the age of 13 or is physically or mentally incapable of self-care, then such child shall be deemed a dependent with respect to the Participant if such Participant is the custodial parent (within the meaning of Code section 152(e)(1)) of the child.

**(c) Dependent Care Reimbursement Account:** The account described in Article V hereof.

**(d) Dependent Child Expenses:** Expenses incurred by a Participant which (1) are paid or incurred for the care of a Dependent of the Participant or for related household services, (2) are paid or incurred to a Dependent Care Service Provider, and (3) are incurred to enable the Participant to be gainfully employed for any period for which there are one or more Dependents with respect to the Participant. Dependent Care Expenses shall not include expenses paid or incurred for services rendered outside the Participant's household for the care of a Dependent unless such Dependent is described in Section 2.1(b)(1)(i), or such Dependent regularly spends at least eight hours a day in the Participant's household. Dependent Care Expenses shall be deemed to be incurred at the time the services to which the expenses relate are rendered.

**(e) Dependent Care Service Provider:** A person who provides care or other services described in Section 2.1(d)(1) above, but shall not include (1) a dependent care center (as defined in Code section 21(b)(2)(D)), unless the requirements of Code Section 21 (b)(2)(C) are satisfied, or (2) a related individual described in Code section 129(c).

**(f) Earned Income:** All income derived from wages, salaries, tips, self employment and other employee compensation described in Code section 32(c)(2) but excluding amounts received under this Plan or under any other plan providing dependent care assistance.

## Article II Definitions and Construction (continued)

**(g) Educational Institution:** An educational organization, which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.

**(h) Effective Date:** The date upon which this Plan is effective

**(i) Eligible Employee:** Each Employee who meets the requirements set forth in Section 3.1 of this Plan.

**(j) Employee:** Any person who is an employee, (such term having its customary common law meaning) of the Employer and who is receiving remuneration for personal services rendered to the Employer.

**(k) Employer:** Kentucky Teachers' Retirement System.

**(l) Flexible Benefits Plan:** Kentucky Teachers' Retirement System Flexible Benefits Plan, effective **January 1, 2007**, as amended from time to time, the provisions of which are hereby incorporated by reference and made a part of this Plan.

**(m) Participant:** Any Employee who has qualified under the terms of Article III of the Plan for participation herein and who remains so qualified.

**(n) Plan:** Kentucky Teachers' Retirement System Dependent Care Reimbursement Plan as set forth herein, as amended from time to time.

**(o) Plan Administrator:** The Employer or its successor or successors, which shall have the authority to administer the Plan as provided in Article VIII.

**(p) Plan Year:** The first Plan Year shall be the period commencing **January 1, 2007** and ending December 31, 2007. All subsequent Plan Years shall be the 12-month period commencing on **January 1**, and ending on **December 31**.

**(q) Student:** An individual who during each of five (5) calendar months during a Tax Year is a full time student at an Educational Institution.

**(r) Tax Year:** For purposes of determining a Participant's maximum dependent care reimbursement under this Plan, the taxable year of such individual.

**2.2 Construction.** As used in this Plan, a pronoun or adjective in the masculine gender includes the feminine gender and the singular includes the plural, unless the context clearly indicates otherwise. The words "hereof," "hereunder" and other similar compounds of the word "here" mean and refer to the entire Plan, not to any particular provision or section.

## **Article II    Definitions and Construction** (continued)

- 2.3    Rights of Participants.** All Participants shall be bound by the terms of the Plan, including all amendments hereto made in the manner authorized herein. Participants shall also be entitled to all of the rights and privileges afforded thereby, including those granted specifically by the Code, which are hereby adopted by reference as a part of this Plan. The Employer intends that the Plan terms, including those relating to participation and benefits, are legally enforceable.

## **Article III Eligibility and Participation**

- 3.1 Eligibility.** Generally, all full-time Employees shall be eligible to participate in the Plan. Full time Employees are defined as those employed for **40** or more hours per week on a regularly scheduled basis, and paid either on a weekly, biweekly, semi-monthly or monthly basis.
- 3.2 Commencement of Participation.** An Eligible Employee shall commence (or recommence) participation upon the effective date of an election under the Flexible Benefits Plan to receive dependent care reimbursement under this Plan.
- 3.3 Cessation of Participation.** A Participant shall continue to participate in this Plan until the earlier of (a) the date on which the Plan terminates or (b) the last day of the month immediately following the date that the Participant's employment terminates.
- 3.4 Discrimination.** This Plan shall not discriminate in favor of highly compensated employees (as defined in Code Section 414(q)) or their dependents pursuant to Code Section 129, as may be in effect from time to time. Not more than twenty-five percent of the amounts paid or incurred by the Employer for dependent care reimbursement during any Plan Year shall be provided to the class of individuals, each of whom own more than five percent of the Employer within the meaning of Code Section 129(e), or their spouses or dependents. The Plan Administrator shall terminate completely the participation of a Participant at the time that trial testing of discrimination indicates the Participant's participation must be terminated in order to avoid failing any applicable discrimination test.

## **Article IV Election to Receive Dependent Care Reimbursement**

- 4.1 Election procedure.** A Participant may elect to receive dependent care reimbursement under this Plan by filing an election in accordance with the procedures established under the Flexible Benefits Plan. An election to receive dependent care reimbursement shall be irrevocable during the Plan Year, subject to a change in family status, as provided in the Flexible Benefits Plan.
- 4.2 Maximum dependent care reimbursement.** The maximum amount which the Participant may receive in any Tax Year in the form of dependent care reimbursement under this Plan shall be (a) in the case of a Participant who is not married at the close of such period, the Participant's Earned Income for the Tax Year, (b) in the case of a Participant who is married at the close of such period, the lesser of (i) the Earned Income of the Participant for the Tax Year or (ii) the Earned Income of the Participant's spouse for the Tax Year, or (c) \$5,000. Notwithstanding (a), (b) and (c), however, the maximum amount that the Participant may receive under this Plan in any Tax Year shall not exceed \$5,000. The \$5,000 limit shall be reduced to \$2,500 in the case of a married Participant filing a separate return. In the case of a spouse who is a Student or is physically or mentally incapable of caring for himself or herself, such spouse shall be deemed to have Earned Income of not less than \$200 per month if the Participant has one Dependent and \$400 per month if the Participant has two or more Dependents.
- 4.3 Treatment of Onsite Facilities.** Except to the extent provided in regulations, the amount of dependent care reimbursement any Participant may receive under this Plan with respect to an onsite facility maintained by the Employer shall be based on utilization of the facility by a Dependent of the Participant and the value of services provided to such individual.



## **Article V Dependent Care Reimbursement Accounts**

- 5.1 Establishment of accounts.** The Employer will establish and maintain on its books a Dependent Care Reimbursement Account for each Plan Year with respect to each Participant who has elected under the Flexible Benefits Plan to receive dependent care reimbursement for the Plan Year.
- 5.2 Crediting of accounts.** There shall be credited to a Participant's Dependent Care Reimbursement Account for each Plan Year, as of each date compensation is paid to the Participant in such Plan Year, an amount equal to the reduction for dependent care reimbursement, if any, to be made in such compensation in accordance with the Participant's election under the Flexible Benefits Plan. All amounts credited to each such Dependent Care Reimbursement Account shall be the property of the Employer until paid out pursuant to Article VI.
- 5.3 Debiting of accounts.** A Participant's Dependent Care Reimbursement Account for each Plan Year shall be debited from time to time in the amount of any payment under Article VI to or for the benefit of the Participant for Dependent Care Expenses incurred during such Plan Year. Amounts debited to each such Dependent Care Reimbursement Account shall be treated as payments of those amounts first credited to the Account that have not yet been treated as paid under this Section.
- 5.4 Forfeiture of accounts.** The amount credited to a Participant's Dependent Care Reimbursement Account for any Plan Year shall be used only to reimburse the Participant for Dependent Care Expenses incurred during such Plan Year, and only if the Participant applies for reimbursement on or before the 90th day following the close of the Plan Year. If any balance remains in the Participant's Dependent Care Reimbursement Account for any Plan Year after all reimbursements hereunder, such balance shall not be carried over to reimburse the Participant for Dependent Care Expenses incurred during a subsequent Plan Year, and shall not be available to the Participant in any other form or manner, but shall remain the property of the Employer and the Participant shall forfeit all rights with respect to such balance.

## **Article VI Payment of Dependent Care Reimbursement**

**6.1 Claims for reimbursement.** A Participant who has elected to receive dependent care reimbursement for a Plan Year may apply to the Employer for reimbursement of Dependent Care Expenses incurred by the Participant during the Plan Year by submitting an application in writing to the Employer on or before the 90th day following the close of the Plan Year, in such form as the Employer may prescribe, setting forth:

- (a) the amount, date and nature of the expenses with respect to which a benefit is requested;
- (b) the name of the person, organization or entity to which the expense was or is to be paid; and
- (c) such other information as the Employer may from time to time require.

Such application shall be accompanied by bills, invoices, receipts, canceled checks or other statements from an independent third party showing the amounts of such expenses, together with any additional documentation which the Employer may request.

**6.2 Reimbursement or payment of expenses.** The Employer shall reimburse the Participant from the Participants Dependent Care Reimbursement Account for Dependent Care Expenses incurred during the Plan Year for which the Participant submits documentation in accordance with Section 6.1. The Employer may, at its option, pay any such Dependent Care Expenses directly to the Dependent Care Service Provider in lieu of reimbursing the Participant. No reimbursement or payment under this Section 6.2 of expenses incurred during a Plan Year shall at any time exceed the balance of the Participant's Dependent Care Reimbursement Account for the Plan Year at the time of the reimbursement or payment. The amount of any Dependent Care Expenses not reimbursed or paid as a result of the preceding sentence shall be carried over and reimbursed or paid only if and when the balance in such Account permits such reimbursement or payment; provided, however, that no Dependent Care Expenses may be carried over from one Plan Year to the next.

**6.3 Report to Participants.** On or before **January 1**, of each year, the Plan Administrator shall furnish to each Participant who has received dependent care reimbursement during the prior calendar year a written statement showing the amount of such assistance paid or incurred by the Employer during such calendar year with respect to the Participant.

## **Article VII Termination of Participation**

In the event that a Participant ceases to be a Participant in this Plan for any reason, the Participant's election under the Flexible Benefits Plan relating to dependent care reimbursement shall terminate on the date that participation ceases. Notwithstanding Section 3.3 hereof, the Participant (or his estate) shall be entitled to reimbursement only for Dependent Care Expenses incurred within the same Plan Year and only if the Participant (or his estate) applies for such reimbursement in accordance with Section 6.1 on or before the 90th day after the close of the Plan Year. No such reimbursement shall exceed the remaining balance, if any, in the Participant's Dependent Care Reimbursement Account for the Plan Year in which the expenses were incurred.

## **Article VIII      Administration**

- 8.1 Plan Administrator.** The administration of the Plan shall be under the supervision of the Plan Administrator. It shall be a principal duty of the Plan Administrator to see that the Plan is carried out, in accordance with its terms, for the exclusive benefit of persons entitled to participate in the Plan without discrimination among them. The Plan Administrator has full power to administer the Plan in all of its details, subject to applicable requirements of law. For this purpose, the Plan Administrator's powers include, but are not limited to, the following authority, in addition to all other powers provided by this Plan:
- (a) To make and enforce such rules and regulations, as it deems necessary, desirable or appropriate for the efficient administration of the Plan, including the establishment of any claims procedures that may be required by applicable provisions of the law
  - (b) To construe and interpret all terms of the Plan, such interpretation to be made in good faith and in accordance with the common meaning of such terms;
  - (c) To decide all questions arising under the Plan including questions regarding the eligibility of any person to participate in the Plan on a basis that is not discriminatory in favor of highly compensated employees (as defined in Code Section 414(q)) and consistent with the written terms of the Plan;
  - (d) To appoint or employ such agents, counsel, accountants, consultants and other persons as may be required to assist in administering the Plan; and (e) To allocate and delegate its responsibilities under the Plan and to designate other persons to carry out any of its responsibilities under the Plan, any such allocation, delegation or designation to be by written instrument and in accordance with applicable requirements of law.
- 8.2 Examination of records.** The Plan Administrator will make available to each Participant such records under the Plan as pertain to him, for examination at reasonable times during normal business hours.
- 8.3 Reliance on tables, etc.** In administering the Plan, the Plan Administrator will be entitled to the extent permitted by law to rely on all tables, valuations, certificates, opinions and reports which are furnished by accountants, counsel or other experts employed or engaged by the Plan Administrator.

## **Article IX    Amendment or Termination of Plan**

- 9.1    Amendment of Plan.** The Employer reserves the right at any time or times and for any reason to alter or amend the provisions of the Plan in whole or in part, by a written instrument, duly executed and acknowledged; provided, however, that any such amendment shall not affect a Participant's right to reimbursement or payment of Dependent Care Expenses incurred prior to the amendment.
- 9.2    Termination of Plan.** The Employer has established the Plan with the intention and expectation that it will be continued indefinitely. However, the Employer reserves the right at any time to terminate or partially terminate the Plan for any reason whatsoever, as determined in the sole discretion of the Employer; provided, however, that any such termination shall not affect a Participant's right to reimbursement or payment of Dependent Care Expenses incurred prior to the termination.

## Article X Claims Procedure

- 10.1 Claims.** A Participant shall make a claim for benefits by making a request therefore in accordance with Section 6.1.
- 10.2 Notice of Decision.** If a claim is wholly or partially denied, notice of the decision, in accordance with Section 10.3, shall be furnished to the claimant within a reasonable period of time, not to exceed ninety (90) days after receipt of the claim by the Plan Administrator, unless special circumstances require an extension of time for processing the claim. If such an extension of time is required, written notice of the extension shall be furnished to the claimant prior to the termination of the initial ninety (90) day period. In no event shall such extension exceed a period of ninety (90) days from the end of such initial period. The extension notice shall indicate the special circumstances requiring an extension of time and the date on which the Plan Administrator expects to render a decision.
- 10.3 Content of Notice.** The Plan Administrator shall provide every claimant who is denied a claim for benefits written notice setting forth, in a manner calculated to be understood by the claimant, the following: (a) the specific reason or reasons for the denial; (b) specific reference to pertinent Plan provisions upon which the denial is based; (c) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary; (d) an explanation of the Plan's claims review procedure, as set forth below in sections 10.4 and 10.5 hereof.
- 10.4 Appeal Procedure.** The purpose of the review procedure set forth in this Section and Section 10.5 is to provide a procedure by which a claimant, under the Plan, may have reasonable opportunity to appeal a denial of a claim to the Appeals Committee for a full and fair review. To accomplish that purpose, the claimant, or his duly authorized representative may: (a) request review upon written application to the Appeals Committee; (b) review pertinent Plan documents; and (c) submit issues and comments in writing. A claimant (or his duly authorized representative) shall request a review by filing a written application for review with the Appeals Committee at any time within sixty (60) days after receipt by the claimant of written notice of the denial of his claim.

## Article X Claims Procedure

(continued)

**10.5 Review Procedure.** Decision on review of a denied claim shall be made in the following manner: (a) The decision on review shall be made by the Appeals Committee, which may, in its discretion, hold a hearing on the denied claim; the Appeals Committee shall make its decision promptly, and not later than sixty (60) days after the Appeals Committee receives the request for review, unless special circumstances require extension of time for processing, in which case a decision shall be rendered as soon as possible, but not later than one hundred twenty (120) days after receipt of the request for review. If such an extension of time for review is required, written notice of the extension shall be furnished to the claimant prior to the commencement of the extension. (b) The decision on review shall be in writing, written in a manner calculated to be understood by the claimant, and shall include specific reasons for the decision, and specific references to the pertinent Plan provisions on which the decision is based. (c) In the event that the decision is not furnished within the same period set forth in Section 10.5(a), the claim shall be deemed denied on review.

**10.6 Disputes.** If a dispute arises with respect to any matter under this Plan, the Plan Administrator may refrain from taking any other or further action in connection with the matter involved in the controversy until the dispute has been resolved.

**10.7 Appeals Committee.** For purposes of this Article X, the Appeals Committee shall consist of the KTRS Executive Secretary, KTRS Deputy Executive Secretary, and one KTRS Division Director selected by the Executive Secretary.

## Article XI Miscellaneous

- 11.1 Communication to Eligible Employees.** The Employer will promptly notify all Eligible Employees of the availability and terms of the Plan.
- 11.2 Limitation of rights.** Neither the establishment of the Plan nor any amendment thereof will be construed as giving to any Participant or other person any legal or equitable right against the Plan Administrator or the Employer except as expressly provided herein, and in no event will the terms of employment or service of any Participant be modified or in any way be affected hereby.
- 11.3 Benefits solely from general assets.** The benefits provided hereunder will be paid solely from the general assets of the Employer. Nothing herein will be construed to require the Employer or the Plan Administrator to maintain any fund or segregate any amount for the benefit of any Participant, and no Participant or other person shall have any claim against, right to, or security or other interest in, any fund, account or asset of the Employer from which any payment under the Plan may be made.
- 11.4 Nonassignability of rights.** The right of any Participant to receive any reimbursement under the Plan shall not be alienable by the Participant by assignment or any other method, and will not be subject to claims by his creditors by any process whatsoever, and any attempt to cause such right to be so subjected will not be recognized, except to such extent as may be required by law.
- 11.5 No guarantee of tax consequences.** While it is intended that the Plan satisfy the relevant provisions of Code Sections 125 and 129, neither the Plan Administrator nor the Employer makes any representations or assurances that any amounts paid to or for the benefit of a Participant under Article VI will be excludable from the Participant's gross income for federal or state income tax purposes, or that any other federal or state tax treatment will apply to or be available to any Participant. It shall be the obligation of each Participant to determine whether each payment under Article VI is excludable from the Participant's gross income for federal and state income tax purposes, and to notify the Employer if the Participant has reason to believe that any payment is not so excludable.



## **Article XI Miscellaneous** (continued)

### **11.6 Indemnification of Employer by Participants.**

If any Participant receives one or more payments or reimbursements under Article VI that are not for Dependent Care Expenses, such Participant shall indemnify and reimburse the Employer for any liability it may incur for failure to withhold federal or state income tax or Social Security tax from such payments or reimbursements. However, such indemnification and reimbursement shall not exceed the amount of additional federal and state income tax that the Participant would have owed if the payments or reimbursements had been made to the Participant as regular cash compensation, plus the Participant's share of any Social Security tax that would have been paid on such compensation, less any such additional income and Social Security tax actually paid by the Participant.

### **11.7 Governing law.** The Plan will be construed, administered and enforced according to the laws of Kentucky.

## Article XII Signature

IN WITNESS WHEREOF, the Employer has caused this Plan to be executed in its name and on its behalf by its duly authorized officer this

First 1<sup>st</sup> day January 2007

### Kentucky Teachers' Retirement System

BY: 

Executive Secretary

**FEBCO, Inc.**

**Third Party ADMINISTRATOR**

BY: \_\_\_\_\_

A Duly Authorized Officer

## **Article XII Signature**

IN WITNESS WHEREOF, the Employer has caused this Plan to be executed in its name and on its behalf by its duly authorized officer this

**First 1<sup>st</sup> day January 2007**

### **Kentucky Teachers' Retirement System**

BY: 

 Executive Secretary

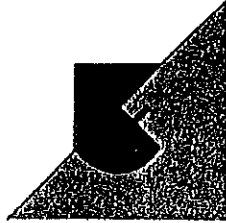
**FEBCO, Inc.**

**Third Party ADMINISTRATOR**

BY: 

A Duly Authorized Officer

F E B C O



Benefits Consultants

Kentucky Teacher's Retirement System  
2005 Service Agreement  
Fee Schedule

FEBCO, Inc.

FSA Plan Features and Fees

PLAN SERVICE FEE:

DNA

CONSULTING FEES:

No additional charge

COMMUNICATION AND ENROLLMENT FEES:

Plan Documents

On File with Client

Summary Plan Description (SPD)

On File with Client

Note: (one original copy camera ready)

Enrollment Support Materials

No additional charge

Benefits Consultant

No additional charge

*Flex Convenience*® card and the *mbiTIME*™ System

\$5.00 / participant per  
month

Note: Proposed 1.125-2 Miscellaneous Cafeteria Plan Questions and Answers

(7) FSA experience gains. If a health FSA has an experience gain with respect to a year of coverage, the excess of the premiums paid (e.g., employer contributions, including salary reduction contributions and after-tax employee contributions) and income (if any) of the FSA over the FSA's total claims reimbursements and reasonable administrative costs for the year will be refunded to the Kentucky Teacher's Retirement System.

FEBCO, Inc.

BY:

[Redacted Signature]

TITLE: CEO

Kentucky Teacher's Retirement System

BY:

[Redacted Signature]

TITLE: EXECUTIVE SECRETARY